

*Updating Charities and Not-For-Profit Organizations on recent legal developments and risk management considerations.*

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New CRA Policy on Charities and Business Activities

Book listing added and materials now available by Donald J. Bourgeois as well as Terrance S. Carter and Jacqueline M. Connor.

Upcoming Seminar (April 14, 2004) - 2nd National Symposium on Charity Law (see below for more details)

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## NEW PUBLICATIONS

### ***Limitations Act, 2002 (Ontario) Makes Sweeping Changes to When and How Proceedings Must be Commenced in Ontario***

*by Mervyn F. White, in Charity Law Bulletin No.39 February 27, 2004.*

The Ontario government proclaimed the Limitations Act, 2002, S.O. Chapter 24, Schedule B (the "Act") into force and effect on January 1st, 2004. The Act introduces significant changes to the law regarding limitation periods in Ontario and is dramatically different from previous legislation, the Limitations Act, R.S.O. 1990, Chapter 24, L. 15 (the "Former Act"). Boards of Directors for churches, charities and not-for-profit organizations are recommended to obtain a copy of the Act and to familiarize themselves with its content. The Act can be found at [http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/02I24b\\_e.htm](http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/02I24b_e.htm).

Limitation periods are designed to establish deadlines as to when a potential claimant must give notice of, or commence his or her claim. Limitations periods provide certainty to a potential defendant, that, once the limitation period has lapsed, the potential defendant can get on with his or her business without fear of ongoing exposure to a lawsuit. Once missed, limitation periods act to bring closure to potential claims. Missing a limitation period has, with few exceptions, the effect of barring the claim of a claimant, regardless of its merits.

#### **Read More:**

[PDF] [www.carters.ca/pub/bulletin/charity/2004/chylb39.pdf](http://www.carters.ca/pub/bulletin/charity/2004/chylb39.pdf)

[WEB] [www.carters.ca/pub/bulletin/charity/2004/chylb39.htm](http://www.carters.ca/pub/bulletin/charity/2004/chylb39.htm)

### ***December 5, 2003 Income Tax Act Amendments Affecting Charities***

*by Theresa L.M. Man and Terrance S. Carter, in Charity Law Bulletin No.38 February 19, 2004.*

Since December 2002, the Department of Finance (the "*Department*") and Canada Revenue Agency (formerly Canada Customs and Revenue Agency) ("CRA") have released a series of proposed changes to the *Income Tax Act* (the "*Act*") that affect charities. These proposed changes include (1) the December 20, 2002 draft technical amendments to the *Act* (the "*December 2002 Amendments*"), (2) the December 24, 2002 Income Tax Technical News No. 26 ("*Technical News No. 26*") in relation to new guidelines on split-receipting, and (3) the 2003 federal Budget (released on February 28, 2003) (the "*February 2003 Budget*") expanding the definition of "tax shelter" to include "gifting arrangements."

#### **Read More:**

[PDF] [www.carters.ca/pub/bulletin/charity/2004/chylb38.pdf](http://www.carters.ca/pub/bulletin/charity/2004/chylb38.pdf)

[WEB] [www.carters.ca/pub/bulletin/charity/2004/chylb38.htm](http://www.carters.ca/pub/bulletin/charity/2004/chylb38.htm)

## **New CRA Policy on Charities and Business Activities**

*by Terrance S. Carter and Suzanne E. White, in Charity Law Bulletin No.37 February 19, 2004.*

This *Charity Law Bulletin* ("Bulletin") provides a brief overview of the Canada Revenue Agency ("CRA") Policy Statement entitled *What is a Related Business?* that was released by on March 31, 2003 ("Policy Statement"). The Policy Statement is applicable to charities that are currently or plan in the future to be involved in business activities in conjunction with their charitable endeavours. The Policy Statement can be accessed at the CRA website at [www.ccra-adrc.gc.ca/tax/charities/policy/cps/cps-019-e.html](http://www.ccra-adrc.gc.ca/tax/charities/policy/cps/cps-019-e.html).

### **Read More:**

[PDF] [www.carters.ca/pub/bulletin/charity/2004/chylb37.pdf](http://www.carters.ca/pub/bulletin/charity/2004/chylb37.pdf)

[WEB] [www.carters.ca/pub/bulletin/charity/2004/chylb37.htm](http://www.carters.ca/pub/bulletin/charity/2004/chylb37.htm)

## **Chapter 1 of The Law of Charitable and Not-for-Profit Organizations: Third Edition**

*by Donald J. Bourgeois.*

[PDF] [www.carters.ca/pub/book/2002/LCNPOch1.pdf](http://www.carters.ca/pub/book/2002/LCNPOch1.pdf)

## **Preface to Charities Law, 2003/2004 Edition**

*by Maria Elena Hoffstein, Terrance S. Carter and Adam Parachin, eds.*

[PDF] [www.carters.ca/pub/book/2003/CL03preface.pdf](http://www.carters.ca/pub/book/2003/CL03preface.pdf)

## In the Press

**Canadian Fundraiser eNews** included a link to *Charity Law Bulletin* No. 35 on "Bill C-45 and its Effect on Criminal Liability and Insurance Coverage for Charities" by Mervyn F. White, Bruce W. Long and Shen Goh.

[Link] [www.canadianfundraiser.com/newsletter/article.cfm?ArticleID=1026](http://www.canadianfundraiser.com/newsletter/article.cfm?ArticleID=1026)

**Today's Family News** included a link to *Charity Law Bulletin* No. 31 titled "Same Sex Marriage: What Churches and Religious Organizations Can Do In Response" (February 3, 2004)..

[Link] [www.fotf.ca/familyfacts/tfn/2004/020304.html](http://www.fotf.ca/familyfacts/tfn/2004/020304.html)

*Charity Law Bulletin* No. 34 by Donald J. Bourgeois was reproduced in **Charitable Thoughts** (Vol. 7 No. 3, February 2004). "Policy Based Governance – What Works and What Doesn't"

[Link] [www.carters.ca/news/2004/charthts/djbfeb.pdf](http://www.carters.ca/news/2004/charthts/djbfeb.pdf)

*Charity Law Bulletin* No. 31 by Terrance S. Carter and Esther S. J. Oh was reproduced in **Christian Legal Journal** (Winter 2004). "Same Sex Marriage: What Churches and Religious Organizations Can Do In Response"

## RECENT EVENTS AND PRESENTATION MATERIALS

**Hospitals and Foundations Seminar Series** (Day 1 - January 22, 2004) "Hospitals and Foundations in Transition: Issues and Opportunities" with keynote speaker David A. Brown, Chair of the Ontario Securities Commission.

[PDF] [www.carters.ca/pub/seminar/charity/2004/hosp0122.pdf](http://www.carters.ca/pub/seminar/charity/2004/hosp0122.pdf)

**Hospitals and Foundations Seminar Series** (Day 2 - February 10, 2004) "Healthcare Philanthropy: Challenges and Solutions" with keynote speaker Maureen Kidd, Director General of the CCRA Charities Directorate, and talks on;

"Recent Changes to the Income Tax Act and Policies Affecting Charities"

by Terrance S. Carter,

"Policy Based Board Governance: What Works & What Doesn't"

by Donald J. Bourgeois, and

"How to Avoid Liability in Fundraising"

by Terrance S. Carter.

[PDF] [www.carters.ca/pub/seminar/charity/2004/hosp0210.pdf](http://www.carters.ca/pub/seminar/charity/2004/hosp0210.pdf)

**"Performance Expectations and Employment Law - Maintaining a Balance"** presented by Mervyn F. White at the "Not-for-Profit Performance Management Made Easy" workshop sponsored by Canadian Fundraiser on February 18, 2004.

[PDF] [www.carters.ca/pub/seminar/charity/2004/mfw0218.pdf](http://www.carters.ca/pub/seminar/charity/2004/mfw0218.pdf)

[WEB] [www.carters.ca/pub/seminar/charity/2004/mfw0218.htm](http://www.carters.ca/pub/seminar/charity/2004/mfw0218.htm)

[Paper] [www.carters.ca/pub/article/charity/2004/emp0218.pdf](http://www.carters.ca/pub/article/charity/2004/emp0218.pdf)

Bruce W. Long, counsel to Carter & Associates, was recently in India as part of a volunteer team with the **International Justice Mission (IJM)**. For more information on what the IJM does, visit their website at [www.ijm.ca](http://www.ijm.ca).

## UPCOMING EVENTS AND PRESENTATIONS

"Recent Changes to the *Income Tax Act* and Policies Relating to Charities and Charitable Gifts" to be presented by Terrance S. Carter for the **Society of Estate and Trust Practitioners (STEPS)** in Toronto on March 4, 2004

**2nd National Symposium on Charity Law** (April 14, 2004) "What's New and What's Coming", being held in Toronto by the Canadian Bar Association (CBA), Ontario Bar Association (OBA) and the Canadian Association of Gift Planners (CAGP), is Co-Chaired by Terrance S. Carter with talks from Carter & Associates lawyers on;

"Extra Provincial Corporate and Fundraising Compliance for Charities"  
by Jacqueline M. Connor and Esther S.J. Oh,

"Board Governance - When Does It Become Director's Negligence"  
by Donald J. Bourgeois (counsel to Carter & Associates),

"Reform of the Canada Corporations Act"  
by Jane Burke-Roberston (counsel to Carter & Associates), and

"Avoiding Wasting Assets II - Intellectual Property Protection for Charities"  
by Terrance S. Carter.

**More details at the CBA website:**

[Link] [www.cba.org/CBA/CLE/cle00/charities.asp](http://www.cba.org/CBA/CLE/cle00/charities.asp)

"Looking a Gift Horse in the Mouth: Legal Liabilities in Fundraising" to be presented by Terrance S. Carter at the **11th National CAGP Conference** in Toronto on April 15, 2004.

**More details at the CAGP website:**

[Link] [www.cagp-acpdp.org/ancon\\_frame.htm](http://www.cagp-acpdp.org/ancon_frame.htm)

## CONTRIBUTORS



**Terrance S. Carter** – Practices primarily in the area of Charity and Not-for-Profit Law, Mr. Carter is member of the Charities Advisory Committee and the Technical Issues Committee advising Canada Revenue Agency, as well as a consulting editor of *Charities Law, 2003/2004 Ed.* published by Butterworths, contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*, and editor of [www.carters.ca](http://www.carters.ca), [www.charitylaw.ca](http://www.charitylaw.ca) and [www.antiterrorism.ca](http://www.antiterrorism.ca).



**Donald J. Bourgeois** – Counsel to Carter & Associates in the area of Charity and Not-for-Profit Law, governance and fundraising, Mr. Bourgeois is author of *The Law of Charitable and Not-for-Profit Organizations, 1st, 2nd and 3rd Editions*, the *Charities and Not-for-Profit Fundraising Handbook*, *Charities and Not-for-Profit Administration and Governance Handbook* and *Public Law in Canada* published by Butterworth.



**Jane Burke-Robertson** – Counsel to Carter & Associates in the area of Charity and Not-for-Profit Law, Ms. Burke-Robertson is agent of the Attorney General of Canada and outside counsel to the Corporate Law Policy Directorate of Industry Canada to provide legal advice on the reform of the *Canada Corporations Act* effective March 12, 2004, as well as co-author of *Non-Share Capital Corporations* published by Carswell and contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*.



**Bruce W. Long** – Counsel to Carter & Associates, Mr. Long practices out of his office in London, Ontario, on Hearings, Tribunals, Inquests and Enforcement Matters, and is the former Regional Director of Crown Attorneys for South-western Ontario and Assistant Deputy Attorney General (Acting), as well as the author of "Prosecutors Handbook" published by the Attorney General of Ontario.



**Mervyn F. White** – Practices primarily in litigation and dispute resolution in areas of the law including charity and not-for-profit law, Human Rights complaints, and risk management assessments relating to insurance law and Human Rights. Mr. White is a contributing author to *Charity Law Bulletin* and *Church Law Bulletin*, and a regular speaker at the annual *Church & the Law™* Seminar and guest speaker for organizations such as the Association of Fundraising Professionals, and the Christian Legal Intervention Academy.



**Jacqueline M. Connor** – Practices in Charity and Not-for-Profit Law, including Incorporation and Corporate Restructuring, Legal Risk Management Reviews, as well as Wills, Estate Planning and Estate Administration. She is a contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*, and has written numerous articles on Charity and Not-for-Profit issues for the *Charity Law Bulletin*. Ms. Connor is also a regular speaker at the annual *Church & the Law™* Seminar.



**Mark J. Wong** – Practices in Intellectual Property, focusing on Trade-Marks, Copyrights, and Privacy and Information Protection, Employment law and General Litigation. Mr. Wong has been an invited speaker for charitable organizations and also contributes regularly to [www.charitylaw.ca](http://www.charitylaw.ca) and the *Charity Law Bulletin*, having written articles ranging anywhere from Employment to Privacy and Trade-Mark Law.



**Esther S.J. Oh** – Practices primarily in Charity and Not-for-Profit Law, as well as in Immigration Law. Ms. Oh is also a frequent contributor to [www.charitylaw.ca](http://www.charitylaw.ca) and the *Charity Law Bulletin*, and has spoken at the annual Church & the Law™ Seminar as well as at the Canadian Bar Association/Ontario Bar Association's 2nd National Symposium on Charity Law.



## ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

**Errata:** *Charity Law Bulletin* No 30 revised slightly on February 17, 2004 to include further clarification on page 7 and reposted.

[PDF] [www.carters.ca/pub/bulletin/charity/2003/chylb30.pdf](http://www.carters.ca/pub/bulletin/charity/2003/chylb30.pdf)

[WEB] [www.carters.ca/pub/bulletin/charity/2003/chylb30.htm](http://www.carters.ca/pub/bulletin/charity/2003/chylb30.htm)

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